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No. 84-106 (5)

IN THE

Supreme Court of the United States

October Term, 1984

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS,

Petitioner,

v.

CLAUS VON BULOW,

Respondent.

Petition for Writ of Certiorari
To the Supreme Court of Rhode Island

MOTION FOR LEAVE TO FILE AMICI CURIAE BRIEF, AND BRIEF, of Annie Laurie Kneissl and Alexander von Auersperg, on their own behalfs and on behalf of their mother, Martha von Bulow, AS AMICI CURIAE, IN SUPPORT OF THE PETITION FOR CERTIORARI

RICHARD H. KUH
Attorney for Annie Laurie Kneissl and Alexander von Auersperg
555 Fifth Avenue
New York, New York 10017
(212) 972-9100

Of Counsel:
Alan E. Marder

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MOTION FOR LEAVE TO FILE AMICI CURIAE BRIEF

Annie Laurie Kneissl and Alexander von Auersperg, the adult children of Martha ("Sunny") von Bulow, on their own behalfs and on behalf of their mother, respectfully move this Court for leave to file the accompanying brief in this case as amici curiae.

The consent of the attorney for the Petitioner, the Attorney General of the State of Rhode Island, has been obtained. The attorneys for the Respondent herein have not consented to the filing of a brief by Mrs. Kneissl and Mr. von Auersperg as amici curiae.

The Interest of the Amici

The applicants have a profound interest in this case in that the Respondent here is their step-father, the husband of their mother whom—as found by the unanimous action of

the Rhode Island trial jurors—von Bulow twice assaulted with the intent to kill. Although Rhode Island's sole appellate court set aside both counts of that conviction, while so doing it expressly noted that:

> [T]he reasonable inferences drawn from [the trial] evidence support a reasonable conclusion that in late December 1979 the defendant, mindful of the ultimatum of his intended bride, decided to take matters into his own hands, one of which held a syringe containing a copious quantity of insulin, and so injected the contents of the syringe into his wife with the intent that she should expire so that he would be free to marry Alexandra. (App. A, pp. 52-53).

Annie Laurie ("Ala") Kneissl and Alexander von Auersperg bring this motion in large part on behalf of their mother, "Sunny" von Bulow, Claus von Bulow's victim. She is now, and has long remained, completely comatose and continuously hospitalized, worse than helpless, her long lingering coma resulting from irrevocable brain damage brought on by von Bulow's second assault, that of December, 1980.

The movants here, Mrs. Kneissl and Mr. von Auersperg, have now spent more than three and a half years with the nightmare knowledge of their step-father's attempt to kill their mother; neither their own suffering nor their mother in her long enduring living death have had their roles as victims given as much as a single passing word of consideration in the lengthy decision of the Rhode Island Supreme Court (App. A, pp. 1-53). This wanton unconcern of the Rhode Island appellate court for the victims of these von Bulow crimes—and concern for victims of all crimes—is at the foundation of the instant motion.

"Sunny" von Bulow's adult children here seek leave to demonstrate to this Court that the Rhode Island Supreme

Court's application of its own novel exclusionary rule—reversing a conviction for heinous crimes because laboratory tests of pills were admitted into evidence when no search warrant had been obtained to test those pills *lawfully in police custody, and when the trial defense denied that the pills belong to von Bulow*—completely loses sight of the rights of the victims, now urged to be of Constitutional dimensions. Moreover, this Constitutional right of victims to due process, equal protection, and trial by jury was not only completely ignored by the Rhode Island Supreme Court, but it has barely been considered in the Rhode Island Attorney General's Petition for Certiorari in this case. (Certiorari Petition, pp. 19-20).

The brief of the amici herein develops the half century old concept, urged by Justice Benjamin Cardozo in *Snyder* v. *Massachusetts,* 291 U.S. 97, 122 (1934), that

> [J]ustice, though due to the accused, is due to the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true.

If the applicants' arguments, as set forth in the brief that is appended hereto, are approved by this Court, the Petition for Certiorari should be granted and, ultimately, the decision of the Rhode Island high court should be reversed.

Respectfully submitted,

Richard H. Kuh
Attorney for Annie Laurie Kneissl and Alexander von Auersperg
555 Fifth Avenue
New York, New York 10017
(212) 972-9100

Of Counsel:
Alan E. Marder

Dated: New York, N.Y.
August 20, 1984

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1. References herein to "App." are to the Appendix submitted with the Petition for Certiorari. References to "Tr." are to the trial transcript by volume and page.

"Sunny" von Bulow's adult children here seek leave to demonstrate to this Court that the Rhode Island Supreme Court's application of its own novel exclusionary rule—reversing a conviction for heinous crimes because laboratory tests of pills were admitted into evidence when no search warrant had been obtained to test those pills *lawfully in police custody, and when the trial defense denied that the pills belong to von Bulow*—completely loses sight of the rights of the victims, now urged to be of Constitutional dimensions. Moreover, this Constitutional right of victims to due process, equal protection, and trial by jury was not only completely ignored by the Rhode Island Supreme Court, but it has barely been considered in the Rhode Island Attorney General's Petition for Certiorari in this case. (Certiorari Petition, pp. 19-20).

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> [J]ustice, though due to the accused, is due to the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true.

If the applicants' arguments, as set forth in this brief are approved by this Court, the Petition for Certiorari should be granted and, ultimately, the decision of the Rhode Island high court should be reversed.

Summary of the Argument

The decision of the Supreme Court of Rhode Island, whether or not otherwise deemed to be soundly premised on adequate and independent state grounds,[2] is so unsound

2. The inadequacy is considered in the Petition for Certiorari at pp. 22-27; neither this nor other items covered in that Petition will be reconsidered herein.

in setting aside a conviction for a crime equivalent to attempted murder, as to constitute the deprivation of the developing Constitutional right of crime victims to be accorded due process of law, equal protection of the laws, and their right to have jury verdicts against criminals upheld, absent sound and reasonable grounds for setting aside such verdicts.

This emerging Constitutional right, presaged a half century ago by Justice Cardozo, is now being crystallized not only in the developing legal literature, but in both legislation and case law. It has recently enjoyed the benisons of this high Court.

If we are to "keep the balance true," as Justice Cardozo long since urged, and defendants in the criminal justice system are soundly to enjoy an entire panoply of Constitutional protections, there must co-exist at least some articulated modicum of protection for crime victims. Such protections must come into play when defendants—as in this case—would otherwise be awarded outlandishly dangerous advantages by preposterous state court action on its face so absurd as to bring dishonor and ridicule upon our American system of criminal justice.

The Rhode Island appellate court action in the instant *von Bulow* case, a case so broadly watched not only throughout America but throughout the world as to mark it as a microcosm of "justice" in America, cries out for review by the United States Supreme Court.

This is an ideal case in which this Court may choose to reaffirm unequivocally that "justice, though due to the accused, is due to the accuser also."

This is an ideal case in which this Court may declare that the due process, equal protection, and jury guarantees

are soundly invoked by crime victims, as well as by the criminally accused.

This is an ideal case in which this Court alone may announce that the several states may not—calling for whatever reasons, upon their own unique idiosyncracies—freshly mold technicalities that fail to accord with certain minimal principles of fairness to victims, and then successfully sanctify and preserve those idiosyncracies by ascribing them to "adequate and independent state grounds."

And, should this Court so determine, it is an ideal case for Supreme Court consideration of whether the recently articulated "good faith exception" should be applied to bar strained applications of the exclusionary rule, even in situations in which police acted cautiously and wholly reasonably, although no search warrants had been sought or obtained.

ARGUMENT

A. The Rhode Island Supreme Court's Decision Setting Aside the Jury's Guilty Verdict Is So Unsound Legally, and So Unconcerned with Serious Crime and Its Victim, That It Should Not Be Allowed to Stand

The majority of the Rhode Island high court, in expressing its disagreement with its own Chief Justice's partial concurrence and partial dissent,[3] expressly ruled that, in this circumstantial case, "the reasonable inferences drawn from [the trial] evidence support a reasonable conclusion that in late December 1979 [the time of the first murderous assault] the defendant . . . decided to take matters into his own hands, one of which held a syringe containing a copious

3. Chief Justice Bevilacqua would have gone even further than his brethren, and would have *dismissed* the *first* count of the indictment: App. A, pp. 53-58.

quantity of insulin" and tried to gain his marital freedom by trying to kill his wife. (App. A, pp. 52-53).

The summation by the state appellate court of the trial evidence (App. A, pp. 1-11) itself demonstrates that the trial evidence of guilt concerning the *second* count of the indictment—that charges the attempt on Mrs. von Bulow's life of December 1980—is even stronger, more persuasive, than the evidence concerning the 1979 coma.

Despite this strength of the evidence on both counts, in reversing the Rhode Island court expressly noted that the black bag and all its contents—including the pills—was lawfully in the custody of the Rhode Island State Police at the time that the State Police had laboratory tests performed on the pills. (App. A, pp. 31-32). Yet that court reversed because of the absence of a search warrant prior to the performance of those analyses which were received into evidence at the trial.[4]

A critical point that was *not* fully considered within the space limitations of the Certiorari Petition, was that the

4. We will not reargue here the propriety of the performance of the laboratory tests without a search warrant. That has been fully considered in the Certiorari Petition, pp. 10-20. Obviously, recognizing that its decision was inconsistent with sound federal precedent, the Rhode Island court went out of its way to place its reversal on so-called "adequate and independent state grounds." (App. A, pp. 47-51). That claim, too, has been analyzed in the Certiorari Petition, pp. 22-27, and will not here be reviewed.

Nor do we here review the harmlessness of the error, if—*arguendo*—error might be deemed to have been committed. (See Certiorari Petition, pp. 20-22). Clearly the critical evidence in the case, found in the same black bag with the pills, was the used hypodermic needle and the lab tests that reflected the presence of insulin and barbiturates on that needle. These were among the critical items of evidence against von Bulow in this trial, and they were ruled by Rhode Island's appellate court to have been properly admitted in evidence. (App. A, pp. 31-32). In contrast, the pills, and the lab tests on the pills, were of no significant importance.

Rhode Island Supreme Court's after-the-fact demand for a search warrant, to justify the pill laboratory tests, served to protect *no significant defense interest.*

Although Claus von Bulow chose not to testify in the course of his own trial, the trial defense repeatedly urged that the black bag and its contents—including the pills—were not his property. This absorbed a portion of the cross-examination of the two key non-medical witnesses, "Sunny" von Bulow's adult son Alexander von Auersperg (one of the amici here), and "Sunny" von Bulow's personal maid of some twenty years' standing, Maria Schrallhammer. (Tr. VII, pp. 191-206; Tr. IX, pp. 594-96, 615-32, 696-97). Indeed, among the few witnesses produced by the defense at the trial was one Marshall D. Salzman, a locksmith; the entire purport of his disputed direct testimony was clearly designed to suggest that the black bag had *not* been found in von Bulow's closet, but was improperly concocted in some fashion by the prosecution and/or prosecution witnesses. (Tr. XX, pp. 3021-35). Further, in the course of his eloquent summation, defense trial counsel Herald Price Fahringer urged, at considerable length, that the black bag and its contents had *not* been inexorably linked to von Bulow and may well have been Sunny's. (Tr. XXV, pp. 3614-24). Unequivocally, Fahringer urged, *inter alia:*

> Now, if there's one thing I ask you to discuss when you go into your Jury Room, I ask you to discuss that, because that's the case; who handled that? Mr. von Bulow was never seen, never seen with that bag in his possession, never seen with it in his hand, never seen in his study, never seen anywhere near him, except in that canvas bag and in a black bag of his. All evidence points towards the fact that he never touched or had any of those things. (Tr. XXV, p. 3620).

The defense having in these divers fashions urged throughout the trial that the black bag and all of its con-

tents were *not* the property of the defendant von Bulow, it is difficult to fathom how *his* rights would have been more soundly protected had Rhode Island's now new, unique, and strange rule, requiring search warrants before laboratory tests may be performed, existed at the time that those tests were in fact performed. On whom was such warrant —had one been obtained—to have been served? The evidence was lawfully in State Police custody, and at trial von Bulow made every effort, short of testifying, to distance himself from any connection with the black bag's contents.

Commenting on Rhode Island's action, New York trial lawyer Mordecai Rosenfeld—a perceptive observer and legal essayist who had had absolutely no connection whatsoever with this trial, the parties, or counsel—writing in the New York Law Journal, noted:

> Again, we will not explore the fine points of the Constitution because there is an overwhelming point that makes the Court's holding so weak: The defense maintained throughout the trial that the black bag belonged *not* to the defendant, but to the comatose victim, Mrs. Martha von Bulow. It tried (unsuccessfully) to convince the jury that Mrs. von Bulow had injected herself with the fatal dosages. Since Claus has claimed throughout that the black bag was Martha's, how could he also claim that *his* Constitutional rights had been violated when the police later sent some of its contents for chemical analysis without a search warrant? The Rhode Island Supreme Court never explains what seems to be a monumental inconsistency.

Rosenfeld, *Claus von Bulow and Shelly Levene*, 191 N.Y.L.J. 109, June 6, 1984 at 2, col. 3.

And so Rhode Island, in order to reverse this conviction for heinous crimes, not only fashioned its own unique ruling, obviously inconsistent with federal law that had

been clearly articulated earlier the same month by this Court in *United States* v. *Jacobsen*, 104 S. Ct. 1652 (1984), but fashioned a rule that protected no interests that the defense had articulated or asserted during the trial.

In so doing, it expressed complete disregard for the rights of the prime victim, "Sunny" von Bulow, and no concern over the anguish caused to her next of kin, the amici here. Not only, if the Rhode Island decision is permitted to stand, will Alexander von Auersperg and his sister, Ala Kneissl, be forced to endure the continued exacerbation experienced by grieving for their comatose and long hospitalized mother, while her would-be killer walks free, but this exacerbation will be intensified by the spectre of once again going through a long and arduous trial, uncertainty remaining as to what the Rhode Island high court may again do the second time around, assuming it is given another crack at another von Bulow jury guilty verdict.

Respectfully, the instant *von Bulow* case is one that this Court may deem appropriate for consideration of some modest extension of the recently articulated "good faith exception" to the exclusionary rule, to apply it to some non-search warrant situations. *See United States* v. *Leon*, 104 S. Ct. 3405 (1984) and *Massachusetts* v. *Sheppard*, 104 S. Ct. 3424 (1984).

B. America and Its Courts are Increasingly Recognizing that Victims Have Rights Entitled to Protection, Rights Completely Ignored by the Rhode Island Court's *von Bulow* Decision

The so-called science of "victimology"—which has spawned its own quarterly magazine "Victimology: An International Journal"—has been rapidly developing during the past decade or two.

At least thirty-nine states now have victims compensation programs, fifteen have laws requiring their courts to

consider victim impact statements prior to sentencing, and at least three states (Arizona, California and Connecticut) allow victims to address the court at the time of sentencing. *See* Kiesel, *Crime and Punishment: Victim rights movement presses courts, legislatures,* 70 A.B.A. Journal 25 (1984).

Two national groups have emerged to champion the rights of victims: the National Organization for Victim Assistance ("NOVA"), and the Victims Assistance Legal Organization ("VALOR").

In April 1982 President Ronald Reagan established the President's Task Force on Victims of Crime which rendered its final report in December of that year. *See Final Report of the President's Task Force on Victims of Crime* (December 1982).

The United States Department of Justice has established a Victims of Crime Management Team, and the United States Congress passed the Victims and Witnesses Protections Act, 18 U.S.C. §§ 3579-80, which was enacted into law in 1982.

Prestigious national legal publications currently carry extensive symposia on various aspects of victim protection. *See* 23 Judges' Journal 2 (Spring 1984) and 11 Pepperdine L. Rev. (1984). Even general circulation magazines for lay readers have stressed the sound development of concern for victims and the rights of victims. *See, e.g.,* Newsweek, March 14, 1983, at 51.

Troubled concern throughout America over child abuse is still another example of today's recognition that victims and their rights—indeed, victims within family units—have too long been neglected in this nation's administration of criminal justice.

Several courts have noted that, in criminal cases, victims are entitled to special protection. Thus, in the case of *In Re Application of KSTP Television for Video Tapes,* 504 F. Supp. 360 (D. Minn. 1980), a federal district judge denied a television station access to video tapes that had been made by a criminal defendant in the course of his rape of his victim. Although the tapes were received in evidence, the court denied the TV station access to them, noting that it would "expose [the victim] to public humiliation and degradation."

Somewhat analogously, although on milder facts, an intermediate New York State appellate court in *New York v. Brewster,* 100 A.D.2d 134, 142-43 (2d Dep't 1984), rejected a defense contention that grand jury proceedings should not be premised upon photographic identification. So doing, the court stated:

> We are mindful also of the additional burden that would be placed upon victims and witnesses were they required to view a lineup in all cases prior to appearing before the Grand Jury. In the absence of any meaningful protection to the accused, the imposition of such burden is to be avoided. [Citations omitted].

Against this background of deep concern for the rights of victims, the 1982 *Final Report of the President's Task Force on Victims of Crime, supra,* at 24-28, expressly recommended the *complete* abolition of the exclusionary rule as applied to Fourth Amendment issues. Although amici do not here suggest the rule's complete abolition, certainly the straining indulged in by the Rhode Island appellate court to exclude the laboratory reports on a few pills, and to reverse on such an exclusionary basis, should not be allowed to stand.

C. Rhode Island's Appellate Court Wrongfully Invaded Rights Guaranteed by the United States Constitution to "Sunny" von Bulow and the Instant Amici

When state courts go haywire and then purport to insulate indefensible decisions by neatly worded assertions of purported "adequate and independent state grounds," a federal Constitutional concept of victims' rights should come into play giving the federal judiciary the power and mandate to step in. The *von Bulow* case clearly presents an ideal medium through which such crystallization of federal Constitutional rights of victims might begin.

This Court has demonstrated its own profound victim oriented concerns. In *Morris* v. *Slappy,* 461 U.S. 1, 14-15 (1983), this high Court reversed the 9th Circuit's grant of a habeas corpus writ to a convicted state defendant. So doing, the decision expressly noted:

> Of course, inconvenience and embarrassment to witnesses cannot justify failing to enforce constitutional rights of an accused: when prejudicial error is made that clearly impairs a defendant's constitutional rights, the burden of a new trial must be borne by the prosecution, the courts, and the witnesses; the Constitution permits nothing less. But, in the administration of criminal justice, courts may not ignore the concerns of victims. Apart from all other factors, such a course would hardly encourage victims to report violations to the proper authorities; this is especially so when the crime is one calling for public testimony about a humiliating and degrading experience such as was involved here. . . . The spectacle of repeated trials to establish the truth about a single criminal episode inevitably places burdens on the system in terms of witnesses, records, and fading memories, to say nothing of misusing judicial resources.

Shortly after its decision in *Slappy*, this Court once again dealt with victims' rights in *United States* v. *Hasting*, 461 U.S. 499 (1983). In that case, this Court again reversed a circuit's vacatur of a conviction, expressly noting, at 507 and 509:

> As we shall see below, the Court of Appeals . . . did not consider the trauma the victims of these particularly heinous crimes would experience in a new trial, forcing them to relive harrowing experiences now long past, or the practical problems of retrying these sensitive issues more than four years after the events.
>
> * * *
>
> Here, the Court of Appeals, while making passing reference to the harmless error doctrine, did not apply it. Its analysis failed to strike the balance between disciplining the prosecutor on the one hand, and the interest in the prompt administration of justice and the interests of the victims on the other.

See also Press-Enterprise Company v. *Superior Court of California*, 104 S. Ct. 819, 820 (1984).

No reason appears why the Fifth Amendment guarantee, "nor shall any person . . . be deprived of life, liberty or property without due process of law," should not be adapted to protect victims as well as criminal defendants. Certainly, "Sunny" von Bulow, comatose, insensible to all life around her, completely unable to talk, to see, to smell, to hear, essentially in an endless sleep, has been effectively deprived of any meaningful "life." Her "liberty" is limited to a continuum of slumber within the four corners of her hospital bed. "Property" can no longer have any meaning for her.

As von Bulow's crimes have effectively deprived her of meaningful "life," "liberty" and "property," and Rhode

Island's appellate court has vitiated that justice that the trial jury awarded by its "guilty" verdict—and has done so on an unsound basis—so doing, it has joined in denying the prime victim, "Sunny" von Bulow, "due process of law." In *Marbury* v. *Madison*, 5 U.S. 137, 163 (1803), Chief Justice Marshall noted:

> The very essence of civil liberty certainly consists in the right of *every* individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection. (Emphasis added).

By reversing the conviction of Claus von Bulow—a conviction reached by an impartial jury—on frivolous grounds, the Rhode Island Supreme Court, and the State of Rhode Island, have not afforded "Sunny" von Bulow the protection due her. They are thereby partners in Claus von Bulow's deprivation of her "life, liberty and property." *See also* Aynes, *Constitutional Considerations: Government Responsibility and the Right Not to be a Victim*, 11 Pepperdine L. Rev. 63, 77-84 (1984) (Victims are entitled to "equal protection of law").

Although the Sixth Amendment expressly focuses on the rights of "the *accused*" in assuring trial by jury, arguably at least a negative pregnant may suggest that when a criminal jury verdict of "guilty" is set aside on a mere whimsical basis, those victimized by the crime have been deprived of their corollary right to have the jury verdict govern. Indeed, the Seventh Amendment expressly provides that in *civil* suits "no fact tried by a jury shall be otherwise reexamined" except "according to the rules of the common law." Logically can a lesser standard be deemed to govern—scrapping the "rules of the common

law" and substituting absurdities—when life itself is involved, not merely a civil claim for some twenty or more dollars![5]

The formal recognition of minimal Constitutional standards of protection for crime victims will not disalign the federal system. States will not be compelled to adopt uniformity, conforming in all details to standards governing in the federal courts. There would simply be certain minimal standards of victim protection below which states would not be permitted to fall. The existence of such minima will eliminate unreasonable court constituted deviations as in the instant case, that are tragically unjust to victims and next of kin, and which hold our system of justice up to ridicule.

Federal intervention, asserting the Constitutional rights of crime victims, will prevent renegade states from insulating their own aberrant behavior from federal review by purporting to rest their decisions on "adequate and independent state grounds." This will give added credibility to the American system of criminal justice, and—preventing only wholly unreasonable pro-defendant state court action—will neither reduce the necessary and reasonable protections here afforded the accused nor convert state courts into mere lackeys of our federal judiciary.

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5. This Court may even wish to consider whether the deep concern for "Life, Liberty and the pursuit of Happiness," heralded by our forefathers in the Declaration of Independence, may enjoy a special niche, one even more hallowed than that of the Constitution's Bill of Rights. "Sunny" von Bulow has clearly been deprived, by Claus von Bulow's surreptitious injections, of all meaningful "Life, Liberty and the pursuit of Happiness." And so victims of such heinous crimes as involve those fundamental deprivations may have special claim, as victims, to protections that, in some instances, will outweigh strained applications of defendants' Bill of Rights protections.

D. The *von Bulow* Case Affords a Unique Medium and Timely Opportunity for this Court to Place Victims' Rights on a Clear Constitutional Footing

This case reaches this Court at a time of confluence of four factors:

(i) In order to avoid the impact of potential federal review and reversal, state courts are increasingly purporting to rest their decisions upon "adequate and independent state grounds," as the Rhode Island Supreme Court did here. See actions of this Court concerning more primative efforts, as in *South Dakota* v. *Neville*, 459 U.S. 553 (1983); *Montana* v. *Jackson*, 103 S. Ct. 1418 (1983); *Michigan* v. *Long*, 103 S. Ct. 3469 (1983). *See also* Certiorari Petition, pp. 22-27.

(ii) A "good faith exception" to the exclusionary rule has emerged. *See United States* v. *Leon*, *supra*, and *Massachusetts* v. *Sheppard*, *supra*. It has not eliminated that rule, and may even have strengthened it by weeding out *some* of the exclusions involving good faith police action, while leaving the rule operative when there is clear and willful police misconduct.

(iii) As noted hereinabove (Point "B"), there is vastly increasing legal and lay support for victims' rights.

(iv) This Court in several 1983 decisions, demonstrated its profound concern that victims not be treated as the waste product of our criminal justice system, as noted hereinabove (Point "C").

This confluence suggests the propriety of the clear articulation *now* of Constitutional rights of victims, rights to be

balanced against—and occasionally to override—purported rights of defendants. This is, clearly, "an idea whose time has come. . . ."

Equally clearly, the *von Bulow* case presents the proper vehicle for such expression.

Claus von Bulow's trial has, understandably, with its combination of attempted murder, sex and adultery, scientific evidence, greed and wealth, attracted worldwide attention.[6] And so express recognition by this Court of Constitutional rights of victims would not only protect von Bulow's victims, but would reassure victims throughout America, and the populace generally, that irresponsible state court action, vitiating sound jury verdicts, will be subject to federal court review.

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6. *See, e.g., Die Frau Im Goldenen Kafig,* Stern, Sept.-Oct. 1983; *Mordafare Bulow; Die Millionairin Die Nicht Sterben,* Bunte, June 16, 23, 30, 1983; *Claus and Sunny, An American Tragedy,* Observer, Sept. 18, 1983; *The Fatal Charm of Claus von Bulow,* McCalls, Oct. 1982. Post conviction, von Bulow—who did not testify on trial—voluntarily appeared for a pre-sentence interview, declaring his innocence to Barbara Walters on television on ABC's "20/20" on April 22, 1982. New York Magazine had run two cover stories, one pre-trial, *Sleeping Beauty,* on January 11, 1982, and one post-conviction, *Guilty,* on March 29, 1982. A widely selling book about the trial, its precursors and its aftermath, William Wright's "The von Bulow Affair" appeared in hard cover in 1983 and in paperback this year. That book notes, *inter alia,* at 2-3, that more than 140 journalists, television cameramen, newscasters, and television technicians were in attendance at Newport's courthouse throughout the trial.

Conclusion

For the reasons set forth above, as well as in the Certiorari Petition submitted by the Attorney General for the State of Rhode Island, this Court should grant Certiorari to review that action of Rhode Island's Supreme Court that set aside the jury verdict of "guilty" rendered against Claus von Bulow in March of 1982.

Respectfully submitted,

RICHARD H. KUH
Attorney for Annie Laurie Kneissl and Alexander von Auersperg
555 Fifth Avenue
New York, New York 10017
(212) 972-9100

Of Counsel:
Alan E. Marder

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